

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Commonwealth Edison Company	)	
	)	00-0259
Petition for Expedited Approval of	)	
Implementation of a Market-Based	)	
Alternative Tariff, to become effective	)	
on or before May, 2000, pursuant to Article	)	
IX and Section 16-112 of the Public	)	(Cons.)
Utilities Act.	)	
	)	
Central Illinois Public Service Company )		
Union Electric Company	)	00-0395
	)	
Petition for Approval of Revisions to	)	
Market Value Tariff, Rider MV	)	
	)	
Illinois Power Company	)	
	)	
Proposed New Rider MVI and Revisions	)	00-0461
Revisions to Rider TC	)	

**NOTICE OF FILING**

**PLEASE TAKE NOTICE** that on this date, January 26, 2001, we have filed with the Chief Clerk of the Illinois Commerce Commission the enclosed People Of The State Of Illinois Reply Brief on Exceptions via e-docket to the Chief Clerk of the Illinois Commission at 527 East Capitol Avenue, Springfield, Illinois 62794-9280.

\_\_\_\_\_  
R. Lawrence Warren  
Senior Attorney General

**CERTIFICATE OF SERVICE**

I, Mark G. Kaminski, Assistant Attorney General, hereby certify that I served the above identified documents upon all active parties of record on the attached service list by United States Mail, first class postage prepaid on January 26, 2001, and by electronic mail to all active parties.

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**REPLY OF THE PEOPLE OF THE STATE OF ILLINOIS  
TO BRIEFS ON EXCEPTIONS TO HEARING EXAMINERS' PROPOSED ORDER**

The People of the State of Illinois (hereafter "People" or "AG ") submit the following as their Reply to Briefs on Exceptions to the Hearing Examiners' Proposed Order (hereafter "HEPO"). The People's silence on any issue should not be construed as either supporting or opposing any particular position on that issue.

**Reply to IP**

**1. Sunset provision**

IP's Brief on Exceptions proposed modifying the HEPO's sunset provision by continuing the effective date of the MVI tariffs to the conclusion of the December 2004 billing period, with revised tariffs to be filed no later than July 1, 2003. The People are opposed to this suggested modification. The HEPO recognizes the importance of the need for the parties "...to gain significant experience with the different aspects of the various tariffs and, perhaps, determine which are superior or problematic." HEPO at 112. The sunset provision provided in the HEPO<sup>1</sup> allows sufficient time to study the effectiveness of the adopted methodology and sufficient time to "...allow the Commission to correct serious problems that are observed and for these to be in place for a meaningful period of time[]" prior to the end of the transition period. HEPO at 112. IP's proposed modification does not allow sufficient time before the end of the transition period for the Commission to correct any problems. Therefore, the People urge the Commission to reject the sunset provision modification proposed by IP, and adopt the sunset provision proposed by the HEPO.

## **2. Updating Market Values**

The HEPO conditioned approval of IP's 12 month rolling average methodology "...by moving the index sampling intervals back one month..." HEPO at 124. This was done to afford customers a more reasonable amount of time to make PPO decisions. IP proposed what could be termed a "Bi-monthly rolling average methodology" that would also afford customers a more reasonable amount of time to make decisions, but would only take a data sample set every other month. The People believe that IP's proposal is not significantly different, or better, than the

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<sup>1</sup> MVI tariffs cease to be effective at the conclusion of the May 2004 billing period and new tariffs are to be filed on January 1, 2003. HEPO at 112.

HEPO's conditioned approval, and continue to support<sup>2</sup> the Period A/Period B methodology. Accordingly, the Commission's Final Order should require IP to adopt the Period A/Period B methodology.

### **3. Reserve Adjustment**

IP proposed to strike the following HEPO's language: "Inasmuch as IP has suggested that it does not require a planning reserve if a RES uses financially firm agreements to meet retail load (See IP brief at 21), the Commission proposes that IP modify its tariffs to explicitly set forth such information." HEPO at 121. The People note that the Public Utilities Act requires that "[e]very public utility... shall state separately all rules, regulations, storage or other charges, privileges and contracts that in any manner affect the rates charged or to be charged for any service." 220 ILCS 5/9-102. Indeed, "a public utility must file and publish a schedule of rates and charges, including any contracts which may affect the same ... [t]hey also help to prevent unlawful price discrimination." *See, Citizens Utility Board v. Illinois Commerce Commission*, 275 Ill. App. 3d 329, 338, 655 N.E. 2d 961, 967 (1<sup>st</sup> Dist. 1995) (tariff that fails to include charges is reversible). It is consistent with the Act that IP explicitly set forth all requirements and charges in its tariff. Therefore, the People urge the Commission to reject IP's proposed modification, and accept the HEPO's existing language referred to above.

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<sup>2</sup> The Period A/Period B methodology is 1) less confusing than the IP 12 month or Bi-monthly methodology, 2) offers less data with which to calculate a market value, 3) offers less time to make PPO decisions, and 4) is anti-competitive. *See, People's Initial Brief at 12.*

WHEREFORE, for the reasons set forth above, the People respectfully request that the Commission modify the Hearing Examiner's Proposed Order in accordance with the arguments made above and in their Brief on Exceptions.

Respectfully submitted,

THE PEOPLE OF THE STATE OF ILLINOIS  
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By: \_\_\_\_\_

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Dated: January 26, 2001

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